

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEPHEN GARCIA,

Plaintiff,

v.

GEORGE ROBINSON, et al.,

Defendants.

No. 2:24-cv-02532-TLN-SCR

ORDER

Plaintiff is proceeding pro se in this action. This matter was accordingly referred to the undersigned pursuant to Local Rule 302(c)(21). Plaintiff has filed a motion for leave to proceed in forma pauperis (“IFP”) and has submitted the affidavit required by that statute. *See* 28 U.S.C. § 1915(a)(1). The motion to proceed IFP will therefore be granted. However, for the reasons provided below, the Court finds Plaintiff’s complaint is legally deficient but will grant Plaintiff leave to file an amended complaint.

I. SCREENING

A. Legal Standard

The federal IFP statute requires federal courts to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). In reviewing the complaint, the Court is guided by the requirements of the Federal Rules of Civil

1 Procedure. The Federal Rules of Civil Procedure are available online at [www.uscourts.gov/rules-](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure)
2 [policies/current-rules-practice-procedure/federal-rules-civil-procedure](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure).

3 Under the Federal Rules of Civil Procedure, the complaint must contain (1) a “short and
4 plain statement” of the basis for federal jurisdiction (that is, the reason the case is filed in this
5 court, rather than in a state court), (2) a short and plain statement showing that plaintiff is entitled
6 to relief (that is, who harmed the plaintiff, and in what way), and (3) a demand for the relief
7 sought. Fed. R. Civ. P. 8(a). Plaintiff’s claims must be set forth simply, concisely and directly.
8 Fed. R. Civ. P. 8(d)(1). Forms are available to help pro se plaintiffs organize their complaint in
9 the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor (Rm. 4-200),
10 Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms.

11 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
12 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the
13 court will (1) accept as true all of the factual allegations contained in the complaint, unless they
14 are clearly baseless or fanciful, (2) construe those allegations in the light most favorable to the
15 plaintiff, and (3) resolve all doubts in the plaintiff’s favor. *See Neitzke*, 490 U.S. at 327; *Von*
16 *Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010), *cert.*
17 *denied*, 564 U.S. 1037 (2011).

18 The court applies the same rules of construction in determining whether the complaint
19 states a claim on which relief can be granted. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (court
20 must accept the allegations as true); *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974) (court must
21 construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a
22 less stringent standard than those drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520
23 (1972). However, the court need not accept as true conclusory allegations, unreasonable
24 inferences, or unwarranted deductions of fact. *Western Mining Council v. Watt*, 643 F.2d 618,
25 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice
26 to state a claim. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007); *Ashcroft v. Iqbal*,
27 556 U.S. 662, 678 (2009).

28 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to

1 state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has
2 facial plausibility when the plaintiff pleads factual content that allows the court to draw the
3 reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at
4 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity
5 to amend, unless the complaint’s deficiencies could not be cured by amendment. *See Akhtar v.*
6 *Mesa*, 698 F.3d 1202, 1213 (9th Cir. 2012).

7 B. The Complaint

8 Plaintiff’s complaint names two defendants, George Robinson and Bobby Chapman. ECF
9 No. 1 at 2. Plaintiff and both Defendants are alleged to reside in Sacramento, California. *Id.*
10 Plaintiff checks the box on the form complaint for federal question jurisdiction, but then he does
11 not list any federal statute, treaty, or constitutional provision at issue. ECF No. 1 at 3-4. Plaintiff
12 then affirmatively pleads that all the parties are citizens of California. *Id.* at 4-5. Plaintiff does
13 not plead an amount in controversy, but instead states he “has been doing business with them over
14 20 years.” *Id.* at 5. The factual statement is very brief and partially illegible, but appears to say
15 that Plaintiff wants Loaves & Fishes and the Gospel Light Mission closed down. *Id.* Plaintiff
16 requests monetary damages. *Id.* at 6.

17 C. Analysis

18 The complaint does not sufficiently plead a basis for federal jurisdiction. Plaintiff does
19 not plead a federal statute or other provision of federal law upon which his claim is based.
20 Plaintiff affirmatively pleads that diversity of citizenship jurisdiction is lacking by pleading that
21 all parties are citizens of California. *See Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996)
22 (diversity jurisdiction requires “complete diversity of citizenship” where “the citizenship of each
23 plaintiff is diverse from the citizenship of each defendant.”). Plaintiff also failed to plead the
24 amount in controversy.

25 The complaint thus does not comply with Federal Rule of Civil Procedure 8(a)(1)-(2) as it
26 does not contain a “short and plain” statement setting forth the grounds for federal jurisdiction, or
27 a short and plain statement showing Plaintiff’s entitlement to relief. The exact nature of
28 Plaintiff’s claims is unclear from the complaint. There is no allegation of what Defendants

1 allegedly did, or how such action or inaction allegedly harmed Plaintiff. The complaint contains
2 no identifiable causes of action under either state or federal law. As the complaint fails to plead a
3 jurisdictional basis and fails to state a claim upon which relief can be granted, dismissal would be
4 appropriate. *See* 28 U.S.C. § 1915(e). However, Plaintiff is proceeding pro se, and a pro se
5 litigant should be given notice of the deficiencies and leave to amend unless it is absolutely clear
6 that the deficiencies cannot be cured by amendment. *Akhtar*, 698 F.3d at 1212. Rather than
7 recommending dismissal of the action, the undersigned will provide Plaintiff an opportunity to
8 amend the complaint to allege a proper basis for jurisdiction and facts supporting a cognizable
9 cause of action.

10 II. AMENDING THE COMPLAINT

11 If plaintiff chooses to amend the complaint, the amended complaint must allege facts
12 establishing the existence of federal jurisdiction. In addition, it must contain a short and plain
13 statement of Plaintiff's claims. The allegations of the complaint must be set forth in sequentially
14 numbered paragraphs, with each paragraph number being one greater than the one before, each
15 paragraph having its own number, and no paragraph number being repeated anywhere in the
16 complaint. Each paragraph should be limited "to a single set of circumstances" where
17 possible. Rule 10(b). As noted above, forms are available to help plaintiffs organize their
18 complaint in the proper way. They are available at the Clerk's Office, 501 I Street, 4th Floor
19 (Rm. 4-200), Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms.

20 The amended complaint must not force the Court and the defendants to guess at what is
21 being alleged against whom. *See McHenry v. Renne*, 84 F.3d 1172, 1177-80 (9th Cir. 1996)
22 (affirming dismissal of a complaint where the district court was "literally guessing as to what
23 facts support the legal claims being asserted against certain defendants"). The amended
24 complaint should contain specific allegations as to the actions of each named defendant.

25 Also, the amended complaint must not refer to a prior pleading in order to make Plaintiff's
26 amended complaint complete. An amended complaint must be complete in itself without
27 reference to any prior pleading. Local Rule 220. This is because, as a general rule, an amended
28 complaint supersedes the original complaint. *See Pacific Bell Tel. Co. v. Linkline*

1 *Communications, Inc.*, 555 U.S. 438, 456 n.4 (2009) (“[n]ormally, an amended complaint
2 supersedes the original complaint”) (citing 6 C. Wright & A. Miller, Federal Practice &
3 Procedure § 1476, pp. 556-57 (2d ed. 1990)). Therefore, in an amended complaint, as in an
4 original complaint, each claim and the involvement of each defendant must be sufficiently
5 alleged.

6 III. CONCLUSION

7 Accordingly, **IT IS HEREBY ORDERED** that:

- 8 1. Plaintiff’s request to proceed in forma pauperis (ECF No. 2) is GRANTED.
- 9 2. Plaintiff **shall have 30 days from the date of this order** to file an amended complaint
10 that addresses the defects set forth above. The amended complaint shall be captioned
11 “First Amended Complaint.” The amended complaint must include a sufficient
12 jurisdictional statement and comply with Rule 8. If Plaintiff fails to timely comply with
13 this order, the undersigned may recommend that this action be dismissed.
- 14 3. Alternatively, if Plaintiff no longer wishes to pursue this action, Plaintiff may file a notice
15 of voluntary dismissal of this action pursuant to Rule 41 of the Federal Rules of Civil
16 Procedure.

17 DATED: December 3, 2024

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20 SEAN C. RIORDAN
21 UNITED STATES MAGISTRATE JUDGE
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